

May 19, 2003

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
TW-A325  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554



Re: Notice of *Ex parte* Presentation  
MB 02-235

Dear Ms. Dortch:

On May 16, 2003, Andrew Jay Schwartzman of the Media Access Project met with Commissioner Kevin Martin and his legal assistant Catherine Bohigian to discuss, *inter alia*, the proposed transfer of control of Hispanic Broadcasting Corporation.

Mr. Schwartzman took the position that the transaction is contrary to the public interest. He argued that progressive relaxation of blanket ownership rules requires the Commission to take greater care to examine matters coming before it on a case-by-case basis. Viewed in this light, he said that the special nature of Spanish language audiences requires the Commission to treat Spanish language broadcasting as a separate market. He claimed that there are strong barriers of entry to new competitors because Hispanics have established listening habits, and it is much more difficult to promote new stations and formats to these communities.

Mr. Schwartzman and Ms. Bohigian discussed the Department of Justice's position that there is, indeed, a separate Spanish language market, and the fact that it entered into a consent decree based upon that analysis. Mr. Schwartzman observed that the Entrevision divestiture required under that decree was inadequate to protect the public interest.

Mr. Schwartzman also pointed out the lack of fairness in the Commission's failure to examine evidence which might provide further proof of the anti-competitive implications of the proposed acquisition and also made the general observation that the Commission has been far too credulous in accepting assurances that questionable business relationships do not raise substantial issues of fact.

Finally, Mr. Schwartzman took note of the strong public opposition to the pending applications. He said that such public reaction should not control any decision, but it should inform the merits judgment as to whether there is a separate market and whether the Commission should look more deeply into the case.

Sincerely,

Andrew Jay Schwartzman  
President and CEO

cc. Commissioner Martin  
Catherine Bohigian